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March 19, 2019

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Jeff Jordan, Assistant General Counsel & Kim Collins, Paralegal
999 E Street, NW
Washington, DC 20463

Re: MUR 7314

Dear Mr. Jordan,

I represent the National Rifle Association of America (NRA) in this matter, and write in response to your letter of January 31, 2018. The letter concerns a complaint by American Democracy Legal Fund (ADLF) alleging that Russian nationals “funnel[ed] foreign funds through the NRA” in connection with the 2016 elections—specifically, it would seem, the presidential election—and/or “participated in the NRA’s decision-making process regarding election-related activities” in connection with the same election.

For the reasons set forth below, ADLF’s allegations are meritless, and no further action should be taken in this MUR. The complaint is based on rank speculation, sensationalized reporting, and ignorance of the NRA’s structure and internal operations. It is devoid of any evidence concerning key elements of the violations it asserts, so much so that no response from the NRA should be necessary to secure its dismissal with a finding of no reason to believe that a violation occurred. Nevertheless, out of an abundance of caution, we are providing affidavits from knowledgeable sources within the NRA that refute the claims at the heart of the complaint.

Background

The complaint is based upon a series of articles in the news media, beginning with an article on McClatchyDC.com on January 18, 2018,¹ which alleged that the FBI was “investigating whether a top Russian banker [Alexander Torshin] with ties to the Kremlin illegally funneled money to the National Rifle Association to help Donald Trump win the presidency.” That article, and others that followed, contained kernels of truth, but also very significant errors, leaps of logic, misunderstandings, and mischaracterizations. The object of this section of our reply is to outline relevant facts and, where necessary, to correct the errors at the heart of the complaint.

¹ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, MCCLATCHY, Jan. 18, 2018, <http://www.mcclatchydc.com/news/nation-world/national/article195231139.html>.

The NRA is a not-for-profit corporation incorporated in New York and recognized as a 501(c)(4) social welfare organization by the IRS. Its principal place of business is in Fairfax, Virginia. The NRA Institute for Legislative Action (NRA-ILA) is a division of the NRA, and is the entity within NRA that is primarily responsible for the NRA's well-known legislative and political activities. (Since NRA-ILA is a division of NRA it should be understood that, for purposes of this response, references to NRA include NRA-ILA, unless otherwise specified.) The NRA Political Victory Fund (FEC ID# 00053553) (NRA-PVF) is NRA's separate segregated fund.

In May of 2016, NRA-PVF endorsed Donald Trump for president. The NRA (excluding NRA-PVF²) ultimately made approximately \$8.7 million in independent expenditures supporting Mr. Trump, and approximately \$12.3 million in independent expenditures opposing Mrs. Clinton, during the 2016 election cycle, as reported by NRA-ILA.³ NRA also spent nearly \$800,000 on member communications supporting Mr. Trump, as reported by NRA-ILA⁴. NRA's independent expenditures for all races in the 2015-2016 election cycle aggregated just over \$33 million.⁵ This totaled about 4.61% of the NRA's total spending over this time period. NRA also expended funds on non-reportable activities such as unpaid Internet communications and field operations.

Although NRA-ILA is a division of NRA, it enjoys a degree of independence; for example, the NRA's bylaws authorize NRA-ILA to maintain separate accounts and separate books, in the charge of the NRA-ILA fiscal officer. However, contributions to the NRA ultimately are deposited into accounts in the charge either of the treasurer, or of the NRA-ILA fiscal officer.⁶

NRA is aware that for a number of years a current NRA board member and past President of the NRA, Mr. David Keene, has been acquainted with a Russian national named Maria Butina, who founded a Russian nonprofit organization commonly known, in English, as Right to Bear Arms (RBA). RBA reportedly works to promote an individual right to keep and bear arms in the Russian Federation. Keene also has become acquainted with Alexander Torshin, a former member of the Federation Council of Russia (the Russian senate), now deputy head of the Central Bank of Russia. Torshin supports and reportedly helped found RBA, and reportedly is a public advocate of private gun rights in Russia.⁷

Butina and Torshin have attended the NRA Annual Meetings and Exhibits ("Annual Meeting") in the United States on multiple occasions. Although it is the usual policy of the NRA to keep membership information confidential, Torshin has publicly stated that he is a life member. That is accurate. He purchased a life membership in 2012. NRA has only one record of either Torshin or Butina ever having made a donation: Butina purchased a silver necklace and earrings at a

² Neither the complaint nor the MUR names NRA-PVF as a respondent; therefore, we presume that there is no need to address NRA-PVF spending in detail. References to NRA throughout this document do not include NRA-PVF.

³ National Rifle Association Institute for Legislative Action: Independent Expenditor – Unauthorized – Financial Summary (2015-2016) – Independent Expenditures, <https://www.fec.gov/data/committee/C90013301/?cycle=2016&tab=spending>.

⁴ National Rifle Association Institute for Legislative Action: Communication Cost – Unauthorized – Spending (2015-2016), <https://www.fec.gov/data/committee/C70000716/?tab=spending&cycle=2016>.

⁵ <https://www.fec.gov/data/committee/C90013301/?cycle=2016>.

⁶ See Exhibit A (Affidavit of Wilson H. Phillips, Jr.) and Exhibit B (Affidavit of Mary Rose Adkins).

⁷ Julia Joffe, *The Rise of Russia's Gun Nuts*, THE NEW REPUBLIC, Nov. 16, 2012, <https://newrepublic.com/article/110223/the-rise-russia-gun-nuts>; <https://www.rferl.org/a/russia-gun-laws-newtown-massacre/24804185.html>.

2015 fundraising auction. She paid \$520 for the set plus \$48.10 in taxes, all in cash. The proceeds went to NRA's general fund, and were not solicited in connection with any election.⁸

NRA also is aware that Keene has attended RBA events in Russia. In 2013 he was invited to speak at a meeting of RBA in Russia. In December 2015, Keene again visited Russia, accompanied by then-First Vice President of the NRA Pete Brownell (who was and remains an NRA board member as well), and a group of people including Sheriff David Clarke, Dr. Arnold Goldschlager, Hilary Goldschlager, Joe Gregory, Jim Liberatore, and spouses of some of the aforementioned people. Also in attendance was Paul Erickson, whom Keene has known since at least the early 1990s.⁹ While in Russia the group engaged in activities such as visiting a Russian firearm manufacturer, a Russian competitive shooting organization, and a military vehicle museum, and met with several prominent Russians with personal interests in hunting and shooting, including Dmitry Rogozin, Chairman of the Russian Shooting Federation, who was also a deputy prime minister of Russia. The trip was not a secret. Sheriff Clarke posted photos from it to his Twitter account,¹⁰ and RBA posted a group photo and Russian-language discussion of the visit on its Facebook page.¹¹

In May 2016, Torshin was at the Annual Meeting in Louisville, Kentucky. Then-candidate Donald Trump and his son, Donald Trump, Jr., were present during parts of that Annual Meeting. One evening, Torshin was a member of a dinner party including Keene, which ended up seated in a room reserved for a different NRA group. When the second group—which included Trump, Jr.—arrived, Keene and his guests were asked to leave and were seated in a different room. After dinner, a few members of the second group entered the room where Keene and his guests were seated, and spoke to them for five to ten minutes.¹² This has been reported as Torshin and Trump, Jr., having attended the same private, “gala dinner,” or even as the two of them having been seated together. In fact, though, they did not attend the same dinner, were not seated together, and met only fleetingly.

Paul A. Erickson figures prominently in reports concerning Torshin, Butina, and the NRA. Erickson is described in the complaint and the underlying articles as a “top-level donor” to NRA,¹³ an “activist who has raised money for the [NRA],”¹⁴ and a “big name[] on the right.”¹⁵ Sources report that in May 2016, Erickson emailed the Trump campaign, attempting to arrange a meeting between candidate Donald Trump and Vladimir Putin, using the 2016 Annual Meeting as a place to

⁸ See Exhibit A.

⁹ Other than Keene and Brownell, none of the aforementioned people were directors, officers, employees, contractors, or agents of the NRA at the time of the visit. Some were and are substantial donors to the NRA who also have been active in supporting NRA fundraising efforts, and who have been given honorific titles as a result of those activities. Sheriff Clarke was then the Sheriff of Milwaukee County, Wisconsin, and a well-known conservative speaker and media personality who publicly supported the NRA. Erickson was an acquaintance of Keene who had occasionally provided consulting and event planning services for the NRA. His last invoice to the NRA was in April 2014. Mr. Liberatore was the President and CEO of Outdoor Sportsman Group Networks.

¹⁰ See, e.g., <https://twitter.com/SheriffClarke/status/676961567112589313>; <https://twitter.com/sheriffclarke/status/675022833806897153>; <https://twitter.com/sheriffclarke/status/675442397044711424>.

¹¹ <https://www.facebook.com/PravoNaOruzie/posts/989323151139883:0>.

¹² Exhibit A.

¹³ Complaint at 3.

¹⁴ Michelle Goldberg, *Is This the Collusion We Were Waiting For?*, N.Y. TIMES, Jan. 19, 2018, <https://www.nytimes.com/2018/01/19/opinion/nra-russia-investigation-trump.html>.

¹⁵ Stone & Gordon, *supra* note 9.

make "first contact."¹⁶ Reports have incorrectly identified Erickson as a life member of the NRA, and have made much of the fact that he sought to use the Annual Meeting as the site for the proposed meeting, implying that NRA was somehow responsible for or involved in Erickson's efforts to broker a "Kremlin connection" (as one article put it) with the Trump campaign. In fact, though, NRA can find no record of Erickson ever having been a professional fundraiser for the NRA or any of its associated entities, or of his having been a donor, let alone a "top-level" donor.¹⁷ Erickson had no formal role with NRA in 2015 or 2016. He has never been an officer, director, or employee, and there is no record of him ever having had a written contract with NRA. He has occasionally performed consulting and event planning services for the NRA, but even those services apparently had ended two years before Erickson allegedly sent the email attempting to connect Trump with Putin. The last invoice from Erickson to the NRA was for \$410 in April 2014, for expenses incurred in 2013. Membership records for Erickson indicate that he was not even a member of the NRA in 2016; he had once been a regular annual member, but his membership expired in 2003.¹⁸ He certainly had no role in NRA's election-related decision-making processes.

The decision-making processes by which candidate endorsements are made, and independent expenditures and other election-related efforts on the part of the NRA are planned and executed, are carried out by NRA-ILA Executive Director Chris Cox (who is also the chairman of NRA-PVF) and the trustees of NRA-PVF¹⁹ as well as the NRA-ILA professional staff, in consultation with NRA Executive Vice President Wayne LaPierre.²⁰ All of those people are U.S. citizens.²¹ The president of the NRA (an office that is equivalent to the chairman of the board in many corporations) and the first and second vice presidents (all of whom are NRA board members), as well as other individual board members, have no formal, individual roles in those processes. Although they may sometimes provide their personal input on such matters, neither Keene nor Brownell did so in connection with the 2016 elections. And although the board could act collectively to provide guidance to Mr. Cox and the other corporate officers concerning election-related activity, it did not choose to do so with respect to the 2016 elections.²² In short, Brownell and Keene did not participate in NRA's decision-making processes concerning the 2016 elections, and neither did any of the other people who participated in the trip to Russia in December of 2015. Furthermore, Mr. Cox avers that no Russian or other foreign nationals participated in those decisions, directly or indirectly.²³ Nor is there any reason to believe that foreign nationals "funneled" money to or through the NRA to influence federal elections.

In preparing to respond to this complaint, the NRA has conducted a review of reasonably available financial records to look for any evidence of direct or indirect contributions or donations from foreign nationals. This has entailed reviewing several sets of records from divisions within

¹⁶ Nicholas Fandos, *Operative Offered Trump Campaign 'Kremlin Connection' Using N.R.A. Ties*, N.Y. TIMES, Dec. 3, 2017, <https://www.nytimes.com/2017/12/03/us/politics/trump-putin-russia-nra-campaign.html? r=0>

¹⁷ See Exhibit A.

¹⁸ *Id.*

¹⁹ Neither Keene, nor Brownell, nor any of the people who traveled to Russia with them in 2015 are trustees of NRA-PVF.

²⁰ See Exhibit C (Affidavit of Chris W. Cox).

²¹ *Id.*

²² *Id.*

²³ *Id.*

NRA, including the Office of the Treasurer, the Membership Division, the Advancement Division, and NRA-ILA. In general, this review has looked for:

- (1) contributors using foreign addresses;
- (2) contributions made via written instruments or wire transfers drawn on foreign banks;
- (3) contributions from Butina, Torshin, Rogozin, Erickson, Bridges LLC, or the Russian Central Bank.

The records that are reasonably available to each division vary in coverage and detail. Except as otherwise specified, the review has been limited to calendar years 2015 and 2016.²⁴

The Office of the Treasurer has examined records of donors who gave \$5,000 or more per annum, in the aggregate, to NRA (other than NRA-ILA) during 2015 and 2016.²⁵ In sum, donations at this level accounted for approximately 27% of the NRA's receipts for both 2015 and 2016. None of those donors used a foreign address,²⁶ or contributed using a written instrument or wire transfer from a foreign bank account. All corporations, limited liability companies, and other organizations in that group were organized under American law and had their principal places of business in the U.S. Butina, Torshin, Rogozin, Erickson, Bridges LLC, and the Russian Central Bank have never contributed to the NRA, with the exception of a previously noted \$520 purchase by Butina at a fundraising auction in 2015.²⁷

NRA-ILA's fiscal officer examined NRA-ILA's records of donations for 2015 and 2016. Available records permitted an examination of all NRA-ILA donors who gave \$1,000 or more in the aggregate during either of those years. Those donations amount to approximately 24% and 47% of NRA-ILA's total receipts for 2015 and 2016, respectively. None of those donors used foreign addresses. Furthermore, NRA-ILA received no donations during 2015 or 2016, in any amount, via check or wire transfer drawn upon a foreign bank. Butina, Torshin, Rogozin, Erickson, Bridges LLC, and the Russian Central Bank have never donated to NRA-ILA.²⁸

Argument

²⁴ ADLF does not specify the years during which it imagines that unlawful foreign contributions occurred. NRA limited its widest review to 2015 and 2016 because those are the years during which the activities that are the complaint's primary focus occurred; they are the years most obviously relevant to the 2016 elections; and, each additional year of records reviewed adds substantial additional burden. Given the flimsiness of the complaint, NRA does not believe it should be obliged to undertake a bottomless dive into its records to prove a negative.

²⁵ This includes contributors via Advancement, Membership, and any other route of contribution, other than NRA-ILA.

²⁶ This is not to imply that smaller donors *did* use foreign addresses. It simply would be too burdensome and time-consuming to review the addresses used by all smaller donors: for example, during 2015 and 2016, NRA's Membership Division alone processed approximately 700,000 contributions from approximately 470,000 unique donors, annually. However, NRA routinely gathers and maintains information on contributors at and above the \$5,000 per annum level in connection with preparing its annual IRS Form 990 information return. Therefore, that is the group of donors that NRA chose to examine for purposes of this response. We also note that, as ADLF has taken pains to point out, NRA made just over \$33 million in independent expenditures in connection with the 2016 elections. In order to have "funneled" any meaningful fraction of that total to NRA in increments of less than \$5,000 per donor, a foreign national would have had to establish a network of at least hundreds, if not thousands, of unique donors through which to make the illegal contributions. That scenario strains credulity, and the NRA should not be required to refute it in the absence of credible evidence of such a scheme—which ADLF has not provided.

²⁷ See Exhibit A.

²⁸ See Exhibit B.

Introduction

Stripped of sensationalism and innuendo, the substance of the complaint boils down to these claims:

- (1) some people associated with the NRA know influential Russians who may have had incentives to influence the 2016 elections;
- (2) the NRA spent considerable sums of money in an effort to influence the 2016 elections; therefore,
- (3) Russians must have “funneled” money to the NRA to influence the elections, and/or participated in NRA’s decision-making concerning the elections.

The assertion that there is some causative connection between (1) and (2) depends on evidence-free leaps of logic. The complaint adduces not a single fact in support of (3). Thus, it fails the requirement that it, “contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction,”²⁹ and should be dismissed even in the absence of a factual response from NRA. However, the people within NRA who are in positions to know aver that (3) is substantially wrong as to both assertions.

Governing Law

The Federal Election Campaign Act of 1971 (FECA),³⁰ and implementing regulations prohibit foreign nationals from directly or indirectly making contributions or donations in connection with any federal, state, or local election.³¹ They also prohibit any person from knowingly soliciting, accepting, or receiving a prohibited contribution or donation from a foreign national, and from knowingly providing substantial assistance in the solicitation, making, acceptance, or receipt of a prohibited contribution.³²

Nothing in FECA, the implementing regulations, or the Commission’s advisory opinions suggests that a politically active, domestic nonprofit corporation such as NRA is *per se* prohibited from accepting receipts or donations to its general fund from foreign nationals, provided that the money is not solicited or accepted for use in connection with an election, and that no foreign national controls or participates in the making of election-related expenditures from the general fund, in violation of 11 CFR 110.4(a)(3) and 110.20(i). To the contrary, the Commission previously concluded that an American subsidiary that received “regular subsidies in the form of loans or contributions to capital” from its foreign parent could nevertheless make contributions to state and local candidates, as long as: (1) all decisions concerning political donations would be made by U.S. citizens or permanent residents; and (2) the subsidiary could demonstrate through a reasonable accounting method that it had sufficient funds in the account from which the contributions were made, other than funds obtained from the foreign national parent. AO 1992-16 (Nansay Hawaii, Inc.). The Commission analogized to what is now 11 C.F.R. 102.5(b)(2)(ii), which permits state, district, or local party committees to make certain expenditures in connections with federal elections if they can “demonstrate through a reasonable accounting method...that whenever such

²⁹ 11 CFR 111.4 (d)(3).

³⁰ 52 U.S.C. § 30101 *et seq.*

³¹ *Id.* § 30121(a)(1); 11 C.F.R. 110.20(b).

³² *Id.* 110.20(g), (h)(1).

organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of" FECA to cover the payment.

Nor is the use of general treasury funds for the establishment, administration, or solicitation of contributions to a separate segregated fund impermissibly tainted because some portion of those funds were derived from foreign nationals, as long as a corporation is not a foreign national. AO 1980-111 (Portland Cement Association).

The prohibition on foreign nationals making contributions or donations to influence U.S. elections has been broadly construed, by regulation, to extend to foreign nationals merely participating in decisions involving election-related activities:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation...with regard to such person's...election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements in connection with elections for any Federal, State, or local office or decisions concerning the administration of a political committee.³³

Advisory opinions applying this regulation have concluded that, for example, a subsidiary of a foreign corporation could establish an SSF even though the three-person board of directors included only one U.S. citizen, and the corporate officers included a mix of foreign nationals and U.S. citizens. AO 2000-17 (Extendicare). This was permissible because Extendicare's decision whether or not to establish an SSF, and any subsequent decisions relating to the activities of the SSF, would be made by a committee composed exclusively of employees of Extendicare or its subsidiaries who were U.S. citizens and/or permanent resident aliens. Notably, the fact that the members of this committee would be employees of a company whose board, officers, and "top management structure" included foreign nationals, many of whom might reasonably be expected to have opinions about American politics, did not give rise to a presumption that those foreign nationals would impermissibly participate in decisions related to SSF activities.

A foreign national is:

(i) A foreign principal, as defined in 22 U.S.C. 611(b) [*i.e.*, a government of a foreign country; a foreign political party; a person outside the United States, unless "such person is an individual and a citizen of and domiciled within the United States," or "is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States"; or "a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country," *Id.*]; or

(ii) An individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence...; however,

³³ 11 CFR 110.4(a)(3), 110.20(i).

(iii) Foreign national shall not include any individual who is a citizen of the United States, or who is a national of the United States as defined in 8 U.S.C. 1101(a)(22).³⁴

Knowingly means that a person must:

(i) Have actual knowledge that the source of the funds solicited, accepted or received is a foreign national;

(ii) Be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national; or

(iii) Be aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national, but the person failed to conduct a reasonable inquiry.³⁵

For purposes of the preceding definition, pertinent facts include:

(i) The contributor or donor uses a foreign passport or passport number for identification purposes;

(ii) The contributor or donor provides a foreign address;

(iii) The contributor or donor makes a contribution or donation by means of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank; or

(iv) The contributor or donor resides abroad.³⁶

Finally, a properly constituted complaint alleging a violation of FECA, "should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction."³⁷

Application

The complaint points to no evidence that any foreign national has ever contributed to or through NRA, let alone in 2015 or 2016, let alone in connection with the 2016 elections.³⁸ It merely speculates that Torshin, Butina, Rogozin, Bridges LLC, or some other foreign national or entity controlled by a foreign national may have made prohibited contributions or donations to or through

³⁴ 11 CFR 110.20 (a)(3).

³⁵ *Id.* 110.20 (a)(4).

³⁶ 11 CFR 110.20 (a)(5)(iv).

³⁷ 11 CFR 111.4 (d)(3).

³⁸ The NRA has never denied receiving occasional contributions from foreign nationals for lawful purposes not in connection with U.S. elections, but ADLF's complaint does not raise that issue, nor does it point to any evidence of contributions that it believes were unlawful.

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the NRA, because Butina and Torshin knew Keene and a few other people associated with NRA, and because Torshin and Erickson reportedly attempted to establish contact with Mr. Trump or representatives of his campaign.

Even if reports of Erickson or Torshin attempting to meet with the Trump campaign are accurate, those attempts are not evidence of attempts to make illegal foreign contributions. Not only has ADLF failed to point to any evidence of Torshin, Butina, or any other Russian national attempting to make or actually making illegal foreign contributions, directly or indirectly, but it has not adduced any facts to support an inference that anyone attempted to do so through NRA, let alone that NRA would have been amenable to such a scheme. The fact that Keene and a handful of other people associated with the NRA had come to know Torshin and Butina is not evidence that they would have joined Torshin, Butina, or anyone else in a criminal conspiracy.³⁹ Rank speculation does not amount to a “fact which describes a violation...over which the Commission has jurisdiction.”

More importantly, NRA (including NRA-ILA) has reviewed its reasonably available records, and has found no substantial contributions from foreign nationals generally in 2015 or 2016, or from Butina, Torshin, Rogozin, Erickson, Bridges LLC, or the Russian Central Bank, *ever*—with the lone exception of the previously acknowledged \$520 general fund contribution from Butina in 2015.⁴⁰ That contribution was not a violation of FECA.

NRA’s total revenue in 2015 and 2016, as reported on its IRS Forms 990 for those years, was \$337 million and \$367 million, respectively.⁴¹ There can be no serious question that, regardless of which accounting method one uses, NRA’s election-related spending during the 2015-2016 election cycle was in no way dependent upon Butina’s \$520. And all decisions concerning those independent expenditures were made by U.S. citizens, without the direct or indirect participation of foreign nationals.⁴² Therefore, under the reasoning of AO 1992-16, Butina’s \$520 contribution does not amount to a violation. And since NRA is incorporated under the laws of a state, and maintains its principal place of business in the United States, it may, under the reasoning of AO 1980-111, use general treasury funds to maintain its PAC without raising concerns about a prohibited contribution from a foreign national, even if some portion (in this instance an extremely small portion) of those general treasury funds derive from foreign nationals.

The complaint also fails to adduce a single fact suggesting that any Russian national participated directly or indirectly in NRA decisions concerning election-related activities. Again, the conclusion that they must have done so is pure supposition, and reflects basic ignorance of NRA’s structure and internal operations. The claim rests on the assertion that “[b]y infiltrating the NRA and gaining unfettered access to NRA donors and leaders, Mr. Torshin and Ms. Butina would have participated in the NRA’s decision-making process regarding election-related activities—certainly

³⁹ Indeed, had Keene, Brownell, Erickson, Butina, Torshin, et al., wished to participate in a criminal conspiracy to solicit, accept, or assist in the making of illegal contributions to the NRA by Russian nationals, it strains credulity that they would go out of their way to draw attention to their relationship by making a trip to Russia, bringing along a ready-made stable of potential witnesses, and permitting the trip to be documented on social media by their putative co-conspirators, when Torshin and Butina regularly visited the United States. For example, Butina was in the United States to speak at the St. Petersburg Conference on World Affairs in February, 2016.

<https://stpetersburgconferenceonworldaffairs.com/conference/2016-speakers/>.

⁴⁰ See Exhibits A and B.

⁴¹ National Rifle Association of America: Tax Filings by Year, ProPublica, <https://projects.propublica.org/nonprofits/organizations/530116130>.

⁴² See Exhibit C.

indirectly if not directly.”⁴³ But ADLF has not pointed to any evidence that Torshin or Butina attempted to influence the election, let alone that either of them attempted to “direct, dictate, control, or directly or indirectly participate in [NRA’s] decision-making process” concerning the 2016 elections. At most, ADLF has adduced evidence that Torshin and Butina were acquainted with some people associated with NRA, and that Torshin wished to meet with Trump. But those facts alone do not give rise to a presumption that Butina or Torshin improperly participated in NRA’s election-related decisions. *Cf.* AO 2000-17. ADLF has not pointed to any evidence to support the idea that anyone within NRA participated or would have participated in any attempt by Torshin or Butina to illegally influence NRA’s election-related decisions.

The complaint’s claim that Butina and Torshin “would have participated in the NRA’s decision-making process”⁴⁴ also rests on several unsupported assumptions: first, that Butina or Torshin had significant influence over those whom they came to know within NRA; and second, that those people themselves had the power to direct the NRA’s efforts in connection with U.S. elections. The handful of board members and volunteer officers, donors, and supporters who participated in the 2015 trip to Russia had no *de jure* or *de facto* role in the making of NRA’s decisions relating to the 2016 elections.⁴⁵ Honorific titles relating to the “NRA Golden Ring of Freedom” and the “NRA Women’s Leadership Forum Executive Committee” may sound impressive, but they do not imply real power over the NRA’s political decision-making processes. NRA-ILA Executive Director Chris Cox, the person ultimately responsible for those decisions, avers that no foreign nationals participated in making them, directly or indirectly, and neither did any of the people who participated in the December 2015 trip to Russia.

It has been reported that Erickson was present in Louisville during the 2016 Annual Meeting, and that he attempted to arrange a meeting between Russian nationals (presumably Torshin) and candidate Trump, or Trump’s agents. Even if that is true, the complaint does not point to any facts indicating that those activities were authorized by, ratified by, or otherwise involved NRA. (Furthermore, even if they had been, it is not clear how those activities would have violated FECA’s ban on foreign contributions.) The NRA cannot control and is not responsible for the acts of each of the tens of thousands of attendees at its Annual Meetings, let alone hangers-on who seek to exploit those meetings for their own purposes. Erickson never had much of a relationship with the NRA, and by 2016 he had none, except perhaps an acquaintance with Keene and Brownell. He was not an officer, director, employee, contractor, or even a member of the NRA. He had no authority to act as the NRA’s agent, and he received no payment from NRA for any of his activities in Louisville, or indeed in 2015 or 2016 at all. Erickson has a decades-long history of political activity entirely apart from his occasional association with NRA.⁴⁶ Whatever he may have done in Louisville, he did it for his own reasons and on his own behalf, not as an agent of NRA. And again, in closing, the things that Erickson is alleged to have done in Louisville do not appear to violate the foreign contribution ban.

⁴³ Complaint at 8.

⁴⁴ *Id.*

⁴⁵ *See* Exhibit C.

⁴⁶ http://rapidcityjournal.com/news/local/timeline-the-life-of-paul-erickson/article_57f06602-f8a4-5d51-9611-82816db0dd25.html.

Conclusion

ADLF's complaint is devoid of any credible evidence that NRA knowingly solicited, accepted, or received any prohibited contribution or donation from a foreign national in connection with the 2016 elections; knowingly provided substantial assistance in the solicitation, making, acceptance, or receipt of a prohibited contribution from a foreign national in connection with the 2016 elections; or permitted any foreign national to direct, dictate, control, or directly or indirectly participate in its decisions in connection with its efforts to influence the 2016 elections. The allegations that it did so are based upon innuendo, unjustified logical leaps, credulous acceptance of sensationalized reporting, and a fundamental ignorance of the NRA's structure and operations. People within NRA who are in a position to know confirm that no foreign nationals made substantial contributions to the NRA in 2015 or 2016, let alone in connection with elections. Nor did any foreign nationals participate directly or indirectly in NRA's decision-making processes in connection with its attempts to influence the 2016 elections.

We request that the Commission dismiss this MUR and close the file.

Respectfully,



Matthew H. Bower
Assistant General Counsel

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EXHIBIT A
AFFIDAVIT OF WILSON H. PHILLIPS JR.

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AFFIDAVIT OF WILSON H. PHILLIPS JR.

PERSONALLY came and appeared before me, the undersigned Notary, the within named Wilson H. Phillips Jr., who is a resident of the State of Texas, and makes this statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his knowledge:

- (1) I, Wilson H. Phillips, Jr., am the Treasurer of the National Rifle Association of America (NRA). I am one of eight corporate officers of the NRA.
- (2) The NRA is a not-for-profit corporation, and is recognized by the Internal Revenue Service as a 501(c)(4) social welfare organization.
- (3) As the Treasurer of the NRA, I am the Chief Financial Officer. My duties include having charge of all the books of account and financial operations of the NRA. My staff also works with NRA's outside accounting firm to prepare the annual IRS Form 990 informational return of the NRA.
- (4) Although I am the Chief Financial Officer, the NRA Institute for Legislative Action (ILA), a division of NRA, is authorized by the NRA Bylaws (Bylaws) to maintain separate accounts, over which the ILA Fiscal Officer has charge. Except as otherwise noted, my comments below refer to all NRA accounts except those of ILA.
- (5) The NRA has strong procedures in place to provide assurance that the NRA's accounting practices are consistent with U.S. Generally Accepted Accounting Principles and federal tax law. For nonprofits such as the NRA and its related organizations, industry standard expectations include, among other essential functions, documenting revenue sources and verifying that the usage of funds fulfills the correct purposes. Membership dues are the NRA's top source of revenues, followed by contributions. The vast majority of contributions

comes from millions of small individual donors. Contributions are carefully monitored and tracked in order to comply with Internal Revenue Service requirements for annual donor disclosure. Checks and balances are in place to preserve the integrity of the NRA's accounting functions.

- (6) As a result of the complaint filed against the NRA in MUR 7314, NRA staff have completed a review into issues relevant to the MUR, the results of which are presented below.
- (7) A review was conducted of all donors whose contributions to the NRA (excluding NRA-ILA, which will be addressed in a separate affidavit by the NRA-ILA fiscal officer) during either calendar year 2015 or 2016 aggregated \$5,000 or more. This amount was chosen because information is collected and retained on those donors as a routine matter, in connection with preparing Schedule B to NRA's annual Form 990. It would have been costly and time-consuming to conduct a review of smaller donors.
- (8) The donors referred to in paragraph (7) were responsible for approximately 27% of donations received by NRA in 2015 and 2016. NRA's average donor for 2015 and 2016, including donors through NRA-ILA, and those referred to in paragraph (7), gave \$169.
- (9) None of the donors referred to in paragraph (7) used foreign addresses.
- (10) All corporations, limited liability companies, limited partnerships, or other combinations of persons among the donors referenced in paragraph (7) were identified as having been organized under the laws of the United States, and having their principal places of business in the United States.
- (11) NRA's records indicate that none of the donors listed in paragraph (7) made their donations via wire transfers or written instruments drawn on foreign banks.
- (12) In addition, a review was conducted to determine whether any of the following individuals had ever made contributions or donations to the NRA:

event. On one evening during the Annual Meetings, I attended a small dinner for a group of NRA officers, directors, and major donors, along with Donald Trump, Jr.

(18) When I arrived at the restaurant shortly after the scheduled start of the dinner, I learned that former NRA President David A. Keene and several other individuals had initially been seated in the room reserved for our group. I have since learned that his group included Alexander Torshin and Maria Butina.

(19) By the time I was seated, Mr. Keene and his guests had already been moved to a nearby room. Later in the evening, a few members of my group, including Donald Trump, Jr., entered that room. I observed members of the two groups speaking for no more than five to ten minutes. No member of our group was ever seated with Mr. Keene's group. Other than that brief interaction, Mr. Keene's group dined separately from mine and I saw no further discussion between the two groups.

DATED this the 19 day of March, 2018


Signature of Affiant, Wilson H. Phillips, Jr.

SWORN to subscribed before me, this 19th day of March, 2018


NOTARY PUBLIC

My Commission Expires:

Oct 31, 2020

COLLEEN PATRICIA SHOEMAKER
NOTARY PUBLIC
REG. #7164428
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES OCT. 31, 2020

EXHIBIT B
AFFIDAVIT OF MARY ROSE ADKINS

1004444/MUN/9

AFFIDAVIT OF MARY ROSE ADKINS

PERSONALLY came and appeared before me, the undersigned Notary, the within named Mary Rose Adkins, who is a resident of the Commonwealth of Virginia, and makes this statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of her knowledge:

- (1) I, Mary Rose Adkins, am the Fiscal Officer of the Institute for Legislative Action (ILA), a division of the National Rifle Association of America (NRA).
- (2) The NRA is a not-for-profit corporation, and is recognized by the Internal Revenue Service as a 501(c)(4) social welfare organization.
- (3) Although ILA is a division of the NRA, the Bylaws of the NRA (Bylaws) authorize ILA to maintain and control separate accounts. As Fiscal Officer, pursuant to the Bylaws, I have charge of the books of account of ILA.
- (4) All incoming donations or contributions to the NRA ultimately are deposited into either the accounts of ILA, over which I have charge, or the other accounts of the NRA, over which the Treasurer of the NRA has charge.
- (5) As a result of a complaint filed against the NRA in MUR 7314, I have reviewed a list of all contributors whose contributions to ILA during calendar year 2015 or 2016 aggregated \$1,000 or more.

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- (6) The donations referred to in paragraph (5) amounted to approximately 23% and 46% of donations received by ILA in 2015 and 2016, respectively.
 - (7) The average contributions for donors who gave less than \$1000 to ILA in 2015 and 2016 were \$57.97 and \$62.95, respectively.
 - (8) None of the aforementioned 2015 and 2016 contributors referred to in paragraph (5) listed an address outside the United States.
 - (9) It would be onerous and time-consuming to review every contribution or donation received by ILA during 2015 and 2016 in order to retrospectively identify the bank on which it was drawn; readily available financial records do not capture that information. However, any contribution or donation to ILA via a check or wire transfer drawn on a foreign bank would be memorable. A check would require a separate deposit slip and payment of a currency conversion fee. In the case of a wire transfer, I would receive and review a notification from the bank in which ILA's accounts are held, including the name of the donor and the name of the transferring bank.
 - (10) I have no recollection of ILA receiving any foreign check or wire transfer in 2015 or 2016. I have also confirmed with my staff that they have no recollection of any incoming foreign check or wire transfer during those years.
 - (11) Upon information and belief, ILA received no contributions or donations from any foreign address, or drawn on any foreign bank account, during 2015 or 2016.

(12) ILA's records indicate that ILA has never received a contribution from any of the following people or entities:

- a. Maria Butina
- b. Alexander/Aleksandr Torshin
- c. Dmitry Rogozin
- d. Paul Erickson
- e. Bridges LLC
- f. The Central Bank of Russia

(13) I have no reason to believe ILA received a contribution from any foreign national in 2015 or 2016.

DATED this the 15th day of March, 2018


Signature of Affiant, Mary Rose Adkins

SWORN to subscribed before me, this 15th day of March, 2018


NOTARY PUBLIC

My Commission Expires:

June 30, 2020



EXHIBIT C
AFFIDAVIT OF CHRIS W. COX

HOOPER

AFFIDAVIT OF CHRIS W. COX

PERSONALLY came and appeared before me, the undersigned Notary, the within named Chris W. Cox, who is a resident of the Commonwealth of Virginia, and makes this statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of her knowledge:

- (1) I, Chris W. Cox, am the executive director of the Institute for Legislative Action (ILA), a division of the National Rifle Association of America (NRA). I am one of eight corporate officers of the NRA.
- (2) The NRA is a not-for-profit corporation, and is recognized by the Internal Revenue Service as a 501(c)(4) social welfare organization.
- (3) Pursuant to the Bylaws of the NRA (Bylaws), ILA has sole responsibility for the NRA's legislative, legal, informational and fund raising activities relating to the defense or furtherance of the right to keep and bear arms.
- (4) I am also the chairman of the NRA Political Victory Fund (PVF), a separate segregated fund established by the NRA and registered with the Federal Election Commission.
- (5) It is the *de facto* policy of the NRA that decisions concerning intervention in federal, state, or local elections—including decisions about which candidates to endorse or support, and decisions concerning the making of expenditures and disbursements for candidate endorsements, independent expenditures, electioneering communications, express advocacy member communications, non-reportable field operations and Internet advertising, and candidate contributions—normally are made and executed by ILA and/or PVF, as appropriate. (For example, under the Bylaws, the NRA is prohibited from making contributions to candidates. Thus, contributions to candidates must be made by PVF. This is

also necessary to comply with federal law and the laws of many states, which prohibit NRA, as a corporation, from making contributions to candidates and their committees.)

- (6) By virtue of my position as Chairman of PVF and Executive Director of ILA, I am personally involved in, intimately familiar with, and ultimately responsible for NRA's decision making concerning the matters described in the preceding paragraph, and with the people responsible for making those decisions, all of whom are U.S. citizens.
- (7) With respect to the 2016 federal, state, and local elections, no foreign national participated in the decisions described in paragraph (5).
- (8) The NRA's bylaws do not grant individual members of the NRA Board of Directors, the President, or the Vice Presidents (excluding the Executive Vice President), any formal role in, or authority over, the decisions described in paragraph (5).
- (9) The NRA Board of Directors, collectively, is authorized to formulate policy and govern the NRA. The Board of Directors did not formulate any policy regarding the 2016 elections, at the federal, state, or local level.
- (10) During 2015 and 2016, Mr. David Keene and Mr. Pete R. Brownell were NRA board members. During portions of that period, Mr. Brownell was also the Second Vice President and, subsequently, the First Vice President of the NRA. As such, neither of them had authority over NRA's decisions described in paragraph (5).
- (11) Neither David Keene nor Pete Brownell participated in NRA's decisions on the matters described in paragraph (5), concerning the 2016 federal, state, or local elections.
- (12) In addition, none of the following people participated in NRA's decisions on the matters described in paragraph (5), concerning the 2016 federal, state, or local elections:
 - a. Mr. Joe Gregory
 - b. Sheriff David Clarke

- c. Mr. Paul Erickson
- d. Dr. Arnold Goldschlager
- e. Ms. Hilary Goldschlager
- f. Mr. Jim Liberatore
- g. a spouse of any of the foregoing

- (13) None of the people mentioned in the paragraphs (11) or (12) attempted to influence my views or decisions concerning the matters described in paragraph (5), in relation to the 2016 federal, state, or local elections. Upon information and belief, none of the people mentioned in paragraphs (11) or (12) did in fact influence NRA's decisions concerning those matters.
- (14) I have no reason to believe that any foreign national influenced the decisions described in paragraph (5) concerning NRA's activities in connection with the 2016 federal, state, or local elections.

DATED this the 19 day of March, 2018

Chris W. Cox

Signature of Affiant, Chris W. Cox

SWORN to subscribed before me, this 19th day of March, 2018

Emily A. Freeman
NOTARY PUBLIC

My Commission Expires:

August 31, 2018

